

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

MARKET DOMINANT PRODUCT PRICES
BILATERAL AGREEMENT BETWEEN THE
UNITED STATES POSTAL SERVICE AND
SINGAPORE POST LIMITED AS (MC2010-35)
NEGOTIATED SERVICE AGREEMENT

Docket No. R2013-5

PUBLIC REPRESENTATIVE COMMENTS ON POSTAL SERVICE
NOTICE CONCERNING BILATERAL AGREEMENT WITH SINGAPORE POST
LIMITED NEGOTIATED SERVICE AGREEMENT

(December 17, 2012)

The Public Representative hereby provides comments pursuant to Order No. 1569.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service notice of a modification to an existing bilateral agreement (Modified Agreement) that the Commission included in the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product in R2012-1.² As the existing Agreement with Singapore Post in R2012-1 expires on December 31, 2012, and the Modified Agreement could only take effect 45 days from filing with the Commission, which would be January 18, 2012, the Postal Service is seeking an extension of the Singapore Post Agreement filed in R2012-1 to apply for an additional six months from January 1, 2013 to June 30, 2012 to avoid a gap in agreement

¹ PRC Order No. 1569, Notice and Order Concerning Bilateral Agreement with Singapore Post Limited Negotiated Service Agreement, December 6, 2012 (Order).

² R2012-1, Notice of Type 2 Rate Adjustment and Notice of Filing of Functionally Equivalent Agreement, October 14, 2011.

coverage. Notice at 1 and 2. The Modified Agreement, like the agreement included in R2012-1, includes inbound letter post small packets with delivery confirmation. The Postal Service asks that the Modified Agreement be included within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product.

In Order No. 549, the Commission approved the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product.³ In Order No. 995, the Commission determined that the Singapore Post Agreement should be included in the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 (MC2010-35, R2010-5 and R2010-6)⁴ product on the Market Dominant Product List.⁵ The Postal Service contends that the Modified Agreement that is the subject of its Notice is functionally equivalent to the agreements filed in Docket. Nov. MC2010-35, R2010-5 and R2010-6 as the only two changes are an extension of the effective dates and an update of the individuals to be contacted regarding the Modified Agreement. The Postal Service therefore asserts that the Modified Agreement is functionally equivalent to the agreement in MC2010-35 because the Commission found the original Singapore Post agreement in R2012-1 to be functionally equivalent to MC2010-35. Notice at 6 and 7. Furthermore, according to the Postal Service, the Modified Agreement therefore meets the statutory criteria of 39 U.S.C. 3622 as it makes no

³ PRC Order No. 549, Order Adding Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 to the Market Dominant Product List and Approving Included Agreements, Docket Nos. MC2010-35, R2010-5, and R2010-6, September 30, 2010.

⁴ MC2010-35, R2010-5, R2010-6, Request of United States Postal Service to Add Inbound Market Dominant Multi-Service Products with Foreign Postal Operators to Market Dominant Product List, Notice of Type 2 Rate Adjustments, and Notice of Filing Two Functionally Equivalent Agreements (Under Seal), August 13, 2010.

⁵ PRC Order No. 995, Order Approving Rate Adjustment for Singapore Post-United State Postal Service Letter Post Bilateral Agreement Negotiated Service Agreement, Docket No. R2012-1, November 23, 2011.

substantive changes to the agreement in R2012-1. *Id* at 1 and 2. The Postal Service there seeks to add the Modified Agreement to Market Dominant Product List as part of the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product. *Id* at 2.

COMMENTS

The Postal Service has provided a copy of the Modified Agreement and financial work papers under seal to ensure compliance with 39 U.S.C. §3622 and 39 C.F.R. 3010.42. The Public Representative has reviewed the Postal Service's Notice and all non-public filings, as well as public and non-public filings in related Docket No. R2012-1. She finds that the Modified Agreement is functionally equivalent to the agreement in MC2010-35 and meets the criteria of U.S.C. 3622(10).

Statutory Criteria. The Postal Service states that pursuant 39 U.S.C. §3622(c)(10), Commission review of a market dominant negotiated service agreement is to address three statutory criteria: whether such an agreement (1) improves the net financial position of the Postal Service or enhances the performance of operational functions, (2) will not cause unreasonable harm to the marketplace, and (3) will be available on public and reasonable terms to similarly situated mailers. With respect to criteria (2) and (3), the Postal Service makes fairly reasonable arguments that these criteria are not implicated by the Modified Agreement with Singapore Post, although the Public Representative notes that small packets do operate in a more competitive market than inbound letters and flats.

With respect to criterion (1), the Public Representative concludes extension of the rates in the Modified Agreement with Singapore Post will continue to improve the net financial position of the Postal Service. This conclusion follows from replacing the negotiated rates in the financial model with the calendar year (CY) 2013 UPU terminal dues rates for transition system countries that would otherwise be applicable to inbound letterpost from Singapore in the absence of the Modified Agreement. With this change, the results of the financial model indicate that the negotiated rates generate additional contribution to the Postal Service than would the applicable UPU terminal dues rates and will allow the Postal Service to cover its costs, unlike the UPU rates. The Modified Agreement with Singapore Post continues to be a significant improvement over the default terminal dues rates of the Universal Postal Union which would apply absent a bilateral agreement, particularly as Singapore is considered a transition country in the UPU and therefore eligible for preferable terminal dues rates. The Postal Service has also included a fair cost contingency in its calculations to account for cost increases and exchange rate fluctuations during the first six months of CY2013.

Functional Equivalence. The Postal Service maintains that the Modified Agreement is functionally equivalent to the agreements in the Inbound Multi-Service Market Dominant Products with Foreign Postal Operators 1 (MC2010-35, R2010-5, R2010-6) product because the Singapore Post Agreement in R2012-1 is functionally equivalent, and the Modified Agreement “does not materially change any of the relevant terms of the Singapore Post Agreements”. Notice at 7. The Public Representative agrees that the Modified Agreement does not change any of the relevant terms of the

Singapore Post Agreement in R2012-1, except for the rates, and therefore is functionally equivalent to the agreements in MC2010-35, R2020-5 and R2010-6.

The Public Representative offers the Commission the foregoing comments for the Commission's consideration.

Respectfully submitted

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